

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

Civil No. 5:10-HC-02138-1D
Criminal No. 5:06-CR-136-1D

KEVIN LESLIE GEDDINGS,)
)
Petitioner,)
)
v.)
)
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

GOVERNMENT'S ANSWER TO
PETITION FOR RELIEF PURSUANT
TO 28 U.S.C. § 2241

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby answers the petitioner's petition for relief pursuant to 28 U.S.C. § 2241.

DISCUSSION

As stated in the Government's June 29, 2010, Memorandum of Law Regarding Impact of Skilling v. United States ("Government's Memorandum of Law"):

[I]t is no longer a federal crime for state public officials to corrupt their public offices by engaging in undisclosed self-dealing. The new interpretation of Section 1346 does not cover the undisclosed self-dealing that Geddings committed in connection with his service as a North Carolina Lottery Commissioner. Consequently, the Government concedes that Geddings is entitled to have his conviction vacated.

Government's Memorandum of Law at 1. Thus, while nothing about the facts proved in Geddings' trial has been called into question,¹ the

¹As noted by the Fourth Circuit, the petitioner concealed his financial relationship with Scientific Games and then "[a]fter becoming a lottery commissioner . . . took action benefitting

Government is in full agreement that the petitioner's conviction should be vacated. In addition, the Government, as discussed in its Memorandum of Law, agrees that the petitioner qualifies under the "Section 2255 Savings Clause" to utilize 28 U.S.C. § 2241 as a vehicle to obtain such relief. Finally, the Government agrees that it should be required to repay the fine and special assessments paid by the petitioner. See United States v. Mandel, 672 F.Supp. 864, 879 (D. Md. 1987).

CONCLUSION

Thus, for all the reasons discussed above, the Government concedes that because the petitioner's conduct no longer constitutes a federal crime, the Court should grant the Section 2241 petition and vacate the petitioner's conviction. In addition, the Government agrees that the petitioner is entitled to have his

Scientific Games." United States v. Geddings, 278 Fed. Appx 281, 283-84 (4th Cir. 2008), cert. denied, 129 S.Ct. 435 (2008).

fine and special assessment payments remitted to him.

Respectfully submitted, this 9th day of July, 2010.

/s/ George E. B. Holding
George E. B. Holding
United States Attorney
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601
Telephone: (919) 856-4530; Fax: (919) 856-4487
E-mail: george.holding@usdoj.gov
NC Bar No. 23179

/s/ John Stuart Bruce
JOHN STUART BRUCE
First Assistant U.S. Attorney
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601
Telephone: (919) 856-4530; Fax: (919) 856-4487
E-mail: john.bruce@usdoj.gov; NC Bar No. 8200

/s/ Dennis M. Duffy
DENNIS M. DUFFY, Assistant U.S. Attorney
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601
Telephone: (919) 856-4530; Fax: (919) 856-4487
E-mail: dennis.duffy@usdoj.gov
NC Bar No. 27225

CERTIFICATE OF SERVICE

This is to certify that I have this 9th day of July, 2010, served a copy of the foregoing upon the undersigned in this action either electronically or by depositing a copy of the same in the United States mail in a postpaid envelope addressed as follows:

Jonathan I. Edelstein
Attorney at Law
271 Madison Avenue, 20th Floor
New York, New York 10016

Eugene H. Matthews
Attorney at Law
1900 Barnwell Street
P.O. Drawer 7788
Columbia, SC 29201

/s/ Dennis M. Duffy
DENNIS M. DUFFY, Assistant U.S. Attorney
310 New Bern Avenue, Suite 800
Raleigh, North Carolina 27601
Telephone: (919) 856-4530; Fax: (919) 856-4487